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 10 TESSERA, INC.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 TESSERA, INC.,

14 CASE NO. C05-04063

15 Plaintiff,

16 TESSERA, INC.'S COMPLAINT FOR
 17 PATENT INFRINGEMENT

vs.

18 DEMAND FOR JURY TRIAL

19 ADVANCED MICRO DEVICES, INC., a
 20 Delaware corporation, and SPANSION LLC, a
 21 Delaware limited liability corporation,

22 Defendants.

23 Plaintiff Tessera, Inc. ("Tessera"), by and through its undersigned attorneys, for its
 24 complaint against Defendants Spansion LLC ("Spansion") and Advanced Micro Devices, Inc.
 25 ("AMD"), alleges as follows:

PARTIES.

26 1. Tessera is a Delaware corporation with its principal place of business in San Jose,
 27 California.

28 2. Tessera is informed and believes, and thereon alleges, that AMD is a Delaware
 29 corporation with its principal place of business in Sunnyvale, California.

30 3. Tessera is informed and believes, and thereon alleges, that Spansion LLC is a
 31 Delaware limited liability corporation with its principal place of business in Sunnyvale, California.

32 4. AMD and Spansion are referred to collectively as the "Defendants."

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 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
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JURISDICTION

5. This action arises under the patent laws of the United States of America, 35 U.S.C. section 1, *et seq.*, including 35 U.S.C. section 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. sections 1331 and 1338(a) in that this is a civil action arising out of the patent laws of the United States of America.

VENUE

6. Venue in the Northern District of California is proper pursuant to 28 U.S.C. sections 1391(b) and (c), and 1400(b) because Tessera is informed and believes, and thereon alleges, that the Defendants have done business in this District and have committed and continue to commit acts of patent infringement in this District and a substantial part of the events or omissions giving rise to Tessera's claims occurred in this district and Defendants may be found and/or reside in this district.

INTRADISTRICT ASSIGNMENT

7. The Tessera patents were involved in two previous civil actions before Judge Claudia Wilken in the Oakland Division, have already had their claims construed by Judge Wilken, and in one instance were the subject of a trial before Judge Wilken (Case Nos. C-02-05837-CW and C-00-2114-CW). Tessera therefore believes this case should be assigned to Judge Wilkin. This is an intellectual property action that otherwise is assignable pursuant to Civil L.R. 3-2(c) on a district-wide basis.

GENERAL ALLEGATIONS

8. Tessera is a global leader in the development of semiconductor packaging technology. Semiconductor packages serve as the electrical interface between semiconductor chips and the systems in which they operate. They also protect delicate chips from damage, contamination, and stress resulting from repeated heating and cooling. Tessera's technology allows companies around the world to meet the growing demand for smaller, faster, less expensive and more reliable electronic products, including cutting edge medical devices and critical military defense components. The United States Patent Office has awarded Tessera over 300 patents that reflect its innovation and protect the company's investment in the technology it has developed.

1 9. More than 50 semiconductor manufacturers and packaging companies such as Intel,
 2 Texas Instruments, Renesas, Toshiba, Sharp, Hitachi, Matsushita, Fujitsu, Sanyo, Hynix and
 3 Samsung have taken licenses to Tessera's patented technology. The rights granted by Tessera
 4 under its patents enable companies like Dell, Compaq, Nokia, Ericsson and Sony to continue to
 5 provide consumers with new generations of electronic products. Tessera's patented innovations
 6 have already been incorporated into more than four billion semiconductors sold throughout the
 7 world. Tessera's technology also enables defense contractors such as General Dynamics, as well
 8 as government agencies and the U.S. Army, to advance our nation's homeland defense and
 9 military preparedness.

10 10. Tessera is informed and believes, and thereon alleges, that Spansion is a majority-
 11 owned subsidiary of AMD. In 1993, AMD and Fujitsu engaged in a joint venture to form
 12 Spansion to manufacture flash memory products. At that time, Spansion was named Fujitsu AMD
 13 Semiconductor Limited ("FASL"). FASL manufactured and sold flash memory wafers to AMD
 14 and Fujitsu, which converted the flash memory wafers into finished memory products by, among
 15 other things, assembling them into semiconductor packages using Fujitsu's packaging and
 16 manufacturing operations. Fujitsu and AMD each then sold the finished memory products to their
 17 customers using their own commercial indicia.

18 11. In April of 1998, AMD took a limited license to Tessera's patented technology that
 19 specifically excludes certain semiconductor packages with chips in face-up orientations from the
 20 license grant. AMD has no right to use Tessera's patents for such packages or to have others, such
 21 as Spansion, make such packages.

22 12. Tessera is informed and believes, and thereon alleges, that in 2003, AMD and
 23 Fujitsu reorganized FASL's business as a Delaware limited liability corporation called FASL
 24 LLC, later renamed Spansion LLC. As part of this transaction, AMD and Fujitsu provided
 25 Spansion with additional flash memory manufacturing assets to enable Spansion to develop flash
 26 memory products, assemble semiconductor packing for its products, and sell finished memory
 27 products. AMD contributed to Spansion AMD's flash memory inventory a number of assets
 28 including a flash memory research and development facility located in Sunnyvale, California

1 known as the Submicron Development Center ("SDC") and flash memory assembly and test
 2 operations in Malaysia.

3 13. Tessera is informed and believes, and thereon alleges, that Fujitsu also contributed
 4 to Spansion Fujitsu's flash memory division and related inventory, cash, and flash memory
 5 assembly and test operations in Malaysia. As a result, Spansion expanded its operations to include
 6 additional flash memory wafer fabrication capacity and Fujitsu's former semiconductor package
 7 assembly operations and related technology.

8 14. Tessera is informed and believes, and thereon alleges, that as a result of the
 9 reorganization, AMD maintains a 60% ownership interest in Spansion while Fujitsu maintains a
 10 40% ownership interest in Spansion.

11 15. Tessera is informed and believes, and thereon alleges, that since the reorganization,
 12 Spansion has manufactured and sold packaged flash memory products to customers worldwide
 13 through its sole distributors, AMD and Fujitsu. Spansion currently engages in the manufacture,
 14 marketing and promotion of flash memory products, which it markets under the Spansion brand
 15 name. Spansion now intends to sell its flash memory products directly to customers as well as
 16 through its distributors.

17 16. Tessera is informed and believes, and thereon alleges, that packaging is an integral
 18 element of Spansion's products. Spansion offers many of its memory products in ball grid array
 19 (BGA) format packages, and also in multi-chip BGA packages ("MCPs"), in which semiconductor
 20 chips are oriented in a face-up manner and include Tessera's patented technology.

21 17. In March of 2005, Fujitsu took a license to certain Tessera patented semiconductor
 22 integrated circuit packaging technology. Fujitsu wished to use the Tessera patented technology to
 23 assemble and sell certain products.

24 18. Tessera is informed and believes, and thereon alleges, that Fujitsu utilizes Tessera's
 25 chip-scale packaging (CSP) technology in many semiconductor devices. The technology available
 26 to Fujitsu covers a broad range of chip-scale and MCP types, including integrated circuit devices
 27 packaged in "face-down," "face-up," "fold-over," "stacked," and "system-in-package" (SiP)
 28 formats.

1 19. Tessera is informed and believes, and thereon alleges, that the Defendants became
2 aware of the Tessera Patents at least as early as, and possibly earlier than, December 11, 2003.
3 Despite the limited nature of AMD's license, and Spansion's lack of any license whatsoever to
4 practice any of Tessera's patented technology, the Defendants have, with full knowledge of
5 Tessera's patents, made, and continue to make, extensive and profitable use of Tessera's patented
6 face-up packaging advances without fairly compensating Tessera's shareholders. Unlike the many
7 companies that behaved responsibly and with respect for Tessera's United States patents, the
8 Defendants have chosen a very different and illegal course of action. Tessera has accordingly
9 been forced to bring this action.

THE PATENTS-IN-SUIT

11 20. United States Patent No. 5,679,977 (“‘977 patent”), entitled “Semiconductor Chip
12 Assemblies, Methods Of Making Same And Components For Same” was duly and legally issued
13 on October 21, 1997. Tessera is the owner by assignment of all right, title and interest in and to
14 the ‘977 patent. A copy of the ‘977 patent is attached as Exhibit A.

15 21. United States Patent No. 5,852,326 (“‘326 patent”), entitled “Face-Up
16 Semiconductor Chip Assembly” was duly and legally issued on December 22, 1998. Tessera is
17 the owner by assignment of all right, title and interest in and to the ‘326 patent. A copy of the
18 ‘326 patent is attached as Exhibit B.

19 22. United States Patent No. 6,433,419 (“‘419 patent”), entitled “Face-Up
20 Semiconductor Chip Assemblies” was duly and legally issued on August 13, 2002. Tessera is the
21 owner by assignment of all right, title and interest in and to the ‘419 patent. A copy of the ‘419
22 patent is attached as Exhibit C.

23 23. United States Patent No. 6,465,893 (“‘893 patent”), entitled “Stacked Chip
24 Assembly” was duly and legally issued on October 15, 2002. Tessera is the owner by assignment
25 of all right, title and interest in and to the ‘893 patent. A copy of the ‘893 patent is attached as
26 Exhibit D.

27 24. The '977 patent, '326 patent, '419 patent and '893 patent are hereafter referred to
28 as the "Tessera Patents."

1 **FIRST CAUSE OF ACTION**
 2 **(Patent Infringement By AMD)**

3 25. Tessera realleges and incorporates by reference paragraphs 1 through 24 as if set
 forth herein in full.

4 26. Tessera is informed and believes, and thereon alleges, that in violation of 35 U.S.C.
 5 § 271 AMD has been and is currently directly infringing, contributorily infringing and/or inducing
 6 infringement of the Tessera Patents by, among other things, making, using, offering to sell, selling
 7 and/or importing without authority or license from Tessera infringing semiconductor components
 8 and assemblies, including flash memory devices having BGA and MCP packages with
 9 semiconductor chips arranged in a face-up orientation.

10 27. Tessera is informed and believes, and thereon alleges, that AMD's infringement of
 11 the Tessera Patents has been and continues to be willful.

12 28. Unless enjoined, AMD will continue to infringe the Tessera Patents, and Tessera
 13 will suffer irreparable injury as a direct and proximate result of AMD's conduct.

14 29. Tessera has been damaged by AMD's conduct, and until an injunction issues will
 15 continue to be damaged in an amount yet to be determined.

16 **SECOND CAUSE OF ACTION**
 17 **(Patent Infringement By Spansion)**

18 30. Tessera realleges and incorporates by reference paragraphs 1 through 24 as if set
 19 forth herein in full.

20 31. Tessera is informed and believes, and thereon alleges, that in violation of 35 U.S.C.
 21 § 271 Spansion has been and is currently directly infringing, contributorily infringing and/or
 22 inducing infringement of the Tessera Patents by, among other things, making, using, offering to
 23 sell, selling and/or importing without authority or license from Tessera infringing semiconductor
 24 components and assemblies, including flash memory devices having BGA and MCP packages
 25 with semiconductor chips arranged in a face-up orientation.

26 32. Tessera is informed and believes, and thereon alleges, that Spansion's infringement
 27 of the Tessera Patents has been and continues to be willful.

33. Unless enjoined, Spansion will continue to infringe the Tessera Patents, and Tessera will suffer irreparable injury as a direct and proximate result of Spansion's conduct.

34. Tessera has been damaged by Spansion's conduct, and until an injunction issues will continue to be damaged in an amount yet to be determined.

PRAYER FOR RELIEF

WHEREFORE, Tessera requests that this Court enter a judgment as follows:

- A. Judgment that the Tessera Patents are valid and enforceable;
 - B. Judgment that AMD and Spansion infringe each of the Tessera Patents and that their infringement is, and has been, deliberate and willful;
 - C. Judgment that this case is exceptional in accordance with 35 U.S.C. § 285;
 - D. An order that preliminarily and permanently enjoins AMD and Spansion, and their directors, officers, employees, attorneys, agents and all persons in concert or participation with any of the foregoing from further acts that infringe, contributorily infringe or induce infringement of the Tessera Patents;
 - E. An order that awards Tessera recovery for all damages that result from the Defendants' infringing acts;
 - F. An order that trebles the amount of damages as a result of the willful and deliberate nature of the Defendants' conduct;
 - G. An order that awards Tessera interest on damages;
 - H. An order that directs the Defendants to pay Tessera's costs, expenses and attorney fees in accordance with 35 U.S.C. §§ 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure; and
 - I. An order for such other and further relief as this Court deems just and proper.

11

DEMAND FOR JURY TRIAL

Tessera hereby demands a trial by jury on all issues triable to a jury.

DATED: October 7, 2005

Respectfully Submitted,

IRELL & MANELLA LLP
Morgan Chu (70446)
Jonathan Steinberg (98044)
Benjamin Hattenbach (186455)

By: Morgan Chu
Morgan Chu (70446)
Attorneys for Plaintiff
TESSERA, INC.

1 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

2 Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed persons,
3 associations of persons, firms, partnerships, corporations (including parent corporations) or other
4 entities (i) have a financial interest in the subject matter in controversy or in a party to the
5 proceeding, or (ii) have a non-financial interest in that subject matter or in a party that could be
6 substantially affected by the outcome of this proceeding: Fujitsu Limited.

7

8 DATED: October 7, 2005

Respectfully Submitted,

9

10 IRELL & MANELLA LLP
11 Morgan Chu (70446)
12 Jonathan Steinberg (98044)
13 Benjamin Hattenbach (186455)

14

15 By: *Benjamin Hattenbach /ESJ*
16 Benjamin Hattenbach (186455)
17 Attorneys for Plaintiff
18 TESSERA, INC.

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